S.B.CIVIL WRIT PETITION NO. 1024/1993
Prahlad Singh Vs. R.S.E.B. & Ors.

DATE OF ORDER :: 03rd July, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.K. Parihar, for the petitioner.
Mr. B.L. Tiwari, Dy. Govt. Advocate.
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By this petition for writ though the petitioner has challenged validity of the Rajasthan State Electricity Board Employees(Emoluments) Regulations, 1978, however, at the time of arguments learned counsel for the petitioner confines the relief to the extent of recovery made by the respondents from the pay of the petitioner against the amount said to be paid in excess. According to the respondents also the petitioner was entitled to be fixed at Rs.260-464 on 8.11.1976 but because of some error fixation of his pay was made at Rs.284 and he was allowed to draw the pay accordingly up to 13.10.1987. The respondents, therefore, made recovery of the amount said to be paid in excess from 8.11.1976.

The contention of counsel for the petitioner is that whatever amount said to be paid in excess from 8.11.1976 to 13.10.1987 was paid by the respondents themselves at their own and no misrepresentation was made by the petitioner to get his pay fixed at Rs.284/- instead of Rs.260, as such, the recovery made is unjust and unfair.

I have considered the contentions so made and I am of the view that in case some erroneous payment is made to an employee by the employer without any error, mischief or misrepresentation on part of the employee then the amount said to be paid in excess cannot be recovered.

In view of the factual and legal position above this petition for writ deserves acceptance. The same, therefore, is allowed. The recovery made by the respondents from petitioner's pay for the payment said to be made in excess for the period commencing from 8.11.1976 to 13.10.1987 is declared illegal. The petitioner is entitled to get the same refunded by the respondents. It is made clear that the respondent in this petition means the successor company i.e. Jodhpur Vidyut Vitran Nigam Ltd. Jodhpur.

(GOVIND MATHUR),J.

jgoyal